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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 3889

13 **MIKE DUC CHAU**  
14 **aka MIKE VU CHAU**  
15 **aka VU DUC CHAU**  
301 S. Fremont Ave., #A  
Alhambra, CA 91801

**STATEMENT OF ISSUES**

16 Pharmacy Technician Application

Respondent.

17  
18  
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs  
23 (Board).

24 2. On or about February 10, 2009, the Board received an application for registration as a  
25 Pharmacy Technician from Mike Duc Chau aka Mike Vu Chau aka Vu Duc Chau (Respondent).  
26 On or about January 30, 2009, Respondent certified under penalty of perjury to the truthfulness of  
27 all statements, answers, and representations in the application. The Board denied the application  
28 on July 2, 2010.

## JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

4. Section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another. . . ."

5. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

"This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

1       6.    Section 4300, subdivision (c), states, in pertinent part:

2       "The board may refuse a license to any applicant guilty of unprofessional conduct. The  
3 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
4 guilty of unprofessional conduct and who has met all other requirements for licensure. . . ."

5       7.    Section 4301 states, in pertinent part, that "unprofessional conduct" is defined to  
6 include, but not be limited to, any of the following:

7       . . . .

8       "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
9 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
10 whether the act is a felony or misdemeanor or not.

11       . . . .

12       "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
13 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
14 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
15 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
16 practice authorized by the license.

17       . . . .

18       "(j) The violation of any of the statutes of this state, of any other state, or of the United  
19 States regulating controlled substances and dangerous drugs.

20       . . . .

21       "(l) The conviction of a crime substantially related to the qualifications, functions and  
22 duties of a licensee... The board may inquire into the circumstances surrounding the commission  
23 of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving  
24 controlled substances or dangerous drugs, to determine if the conviction is of an offense  
25 substantially related to the qualifications, functions, and duties of a licensee under this  
26 chapter. . . ."

27       ///

28       ///

1 **REGULATORY PROVISIONS**

2 8. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license  
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
7 licensee or registrant to perform the functions authorized by his license or registration in a manner  
8 consistent with the public health, safety, or welfare."

9 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

10 9. Methamphetamine is a Schedule II controlled substance as designated by Health and  
11 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
12 section 4022.

13 **FIRST CAUSE FOR DENIAL OF APPLICATION**

14 **(Conviction of a Crime)**

15 10. Respondent's application is subject to denial under sections 480, subdivision (a)(1),  
16 4300, subdivision (c), and 4301, subdivision (l), in conjunction with California Code of  
17 Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent  
18 was convicted of a crime substantially related to the qualifications, functions or duties of a  
19 registered pharmacy technician. The circumstances are as follows:

20 a. On or about August 15, 1997, after pleading nolo contendere, Respondent was  
21 convicted of one misdemeanor count of violating Penal Code section 415(1) [challenge to fight in  
22 public] in the criminal proceeding entitled *The People of the State of California v. Vu Duc Chau*  
23 (Super. Ct. Los Angeles County, 1997, No. 7GL02622). The Court placed Respondent on two (2)  
24 years of summary probation, and ordered Respondent to pay a fine of \$810.00, or in lieu of fine  
25 complete 125 hours of community service. In addition, the Court issued a restraining order,  
26 ordering Respondent to stay away from Glendale Galleria. On or about October 22, 2003, the  
27 Court ordered the matter dismissed pursuant to Penal Code section 1203.4.

28 ///

1           b.     The circumstances underlying the conviction are that on or about May 21, 1997,  
2 Respondent was arrested and charged with challenge to fight in a public place.

3                           **SECOND CAUSE FOR DENIAL OF APPLICATION**

4                           **(Use/Under the Influence of Controlled Substance)**

5           11.   Respondent's application is subject to denial under sections 4300, subdivision (c),  
6 and 4301, subdivision (h), on the grounds of unprofessional conduct, in that on or about  
7 April 5, 2008, Respondent admitted to being under the influence of methamphetamine, a  
8 controlled substance and dangerous drug, without a valid prescription, and was arrested.  
9 Subsequently, on or about June 6, 2008, after pleading guilty, Respondent was convicted of one  
10 misdemeanor count of violating Health and Safety Code section 11550(a) [use/under influence of  
11 controlled substance] and place on deferred entry of judgment for 18 months in the criminal  
12 proceeding entitled *The People of the State of California v. Mike Vu Chau* (Super. Ct. Los  
13 Angeles County, 2008, No. 8AH02345). In addition, the Court ordered Respondent to complete  
14 an approved controlled substance treatment program within 30 days.

15                           **THIRD CAUSE FOR DENIAL OF APPLICATION**

16                           **(Violate Drug Laws)**

17           12.   Respondent's application is subject to denial under sections 4300, subdivision (c),  
18 and 4301, subdivision (j), in that Respondent committed acts of unprofessional conduct violating  
19 Health and Safety Code section 11550. Complaint refers to and by this reference incorporates the  
20 allegations set forth above in paragraph 11, inclusive, as though set forth fully.

21                           **FOURTH CAUSE FOR DENIAL OF APPLICATION**

22                           **(Acts Involving Moral Turpitude, Dishonesty, Corruption, or Deceit)**

23           13.   Respondent's application is subject to denial under sections 480, subdivision (a)(2)  
24 and 4300 subdivision (c) and section 4301 subdivision (f), on the grounds of unprofessional  
25 conduct, in that Respondent committed acts involving moral turpitude, dishonesty, corruption, or  
26 deceit. Complaint refers to and by this reference incorporates the allegations set forth above in  
27 paragraphs 10 - 12, inclusive, as though set forth fully.

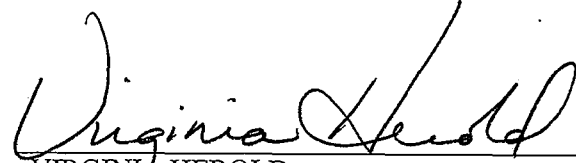
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying Mike Duc Chau's Pharmacy Technician Application; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/5/11

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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